

### **Remarks**

Applicants have read and considered the Office Action dated April 21, 2004. In the Action, claim 64 was objected to for being dependent on claim 4 instead of claim 63. Claim 64 has now been amended. Applicants assert that the objection is traversed.

In the Action, a Restriction Requirement was placed on the application. The Office Action stated that election was required between one of six groups, namely:

Group I, claims 1-17, 19-27, 37-53 and 59-60 drawn to an isolated DNA molecule, comprising said isolated DNA molecule operably linked to a regulatory element, a plant transformed therewith, a method of producing somatic embryos, a method of modifying the regenerative capacity of a plant and a method of producing an apomictic plant. The Action further stated that if Group I is elected, Applicants are required to elect one DNA sequence encoding one corresponding amino acid sequence from:

SEQ ID NO:1 encoding SEQ ID NO:2; and  
SEQ ID NO:3 encoding SEQ ID NO:4;

Group II, claims 18, 61-62 and 74, drawn to an isolated protein;

Group III, claims 28-36, drawn to a promoter sequence;

Group IV, claim 54, drawn to an isolated DNA molecule encoding a protein consisting of two AP2 DNA binding domains;

Group V, claims 55-58, drawn to a method of producing a protein comprising a transactivation system; and

Group VI, claims 63-73, drawn to an isolated DNA molecule comprising a nucleotide sequence that hybridizes to SEQ ID NO:6.

Applicants hereby elect Group I, claims 1-17, 19-27, 37-53 and 59-60 with traverse. Moreover, further election was required regarding the amino acid sequence. Applicants hereby elect SEQ ID NO:1 encoding SEQ ID NO:2.

Applicants hereby traverse the Restriction Requirement requiring election between SEQ ID NO:1 encoding the protein of SEQ ID NO:2 and SEQ ID NO:3 encoding the protein of SEQ ID NO:4. Applicants assert that the BMN3A and BMN3B proteins are extremely closely related in sequence. The proteins differ only in 13 AA out of a total of 579 AA. The encoding cDNA fragments are very closely related as supported by Figure 2. Applicants request that the election between the encoding of the proteins should be withdrawn. Moreover, the further encoding Restriction includes proteins that are closely related that could be examined and searched together. Applicants request that the Restriction Requirement with regard to these proteins and encoding be withdrawn.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.


Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: \_\_\_\_\_

6/21/04

By: \_\_\_\_\_

  
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